

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

(1) THE UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.) No. 24-CV-626-CVE-SH
)
 (1) MATTHEW J. BALLARD, District)
 Attorney for The Twelfth Prosecutorial)
 District of Oklahoma, in his official)
 capacity,)
)
 Defendant.)

**DEFENDANT’S REPLY IN SUPPORT OF MOTION TO AMEND BRIEFING
SCHEDULE**

The Court should decline the United States of America's ("Plaintiff") push for the merits of this case to be addressed while the Court's jurisdiction to proceed is at issue in Defendant's Motion to Dismiss [Dkt. # 52]. In its Response in Opposition to Defendant's Motion to Amend Briefing Schedule [Dkt. #58], Plaintiff implied that the State district courts overseeing the ongoing criminal proceedings referenced in Plaintiff's Complaint may not be addressing the issue of State jurisdiction over nonmember Indians who commit non-major crimes in Indian country quickly enough. This isn't the case.

On February 28, 2025, the Craig County Associate District Judge (Craig County is within District Attorney Matthew Ballard's prosecutorial district) denied a defendant's requests to continue his criminal proceedings while this lawsuit is pending. *State v. Billey*, Case No. CF-2024-73 (Craig Co. Dist. Ct. Feb. 28, 2025); *State v. Billey*, Case No. CF-2024-117 (Craig Co. Dist. Ct. Feb. 28, 2025). The Court also denied the defendant's extensive motions to dismiss, which were based on the same arguments that Plaintiff advances in this action. *Id.* The defendant, who is a nonmember Indian (Choctaw) accused of committing a non-major crime (aggravated drug

trafficking and other drug and firearm charges) in Cherokee Nation’s Indian country, announced his intent to appeal. *Id.*

State courts have addressed and are continuing to address the issue central to Plaintiff’s lawsuit. Plaintiff’s request for this Court to bypass ongoing State prosecutions addressing the precise issue Plaintiff raises in the Complaint exposes its effort to circumvent—and improperly enjoin—numerous State courts exercising valid jurisdiction under controlling United States Supreme Court authority. This Court should decline to do so unless and until it has determined it has the jurisdiction to resolve Plaintiff’s claims on the merits, in the face of insurmountable standing and abstention hurdles.

WHEREFORE, Defendant, Matthew J. Ballard, District Attorney for the Twelfth Prosecutorial District of Oklahoma, respectfully requests that this Court grants his Motion to Amend Briefing Schedule [Dkt. # 53].

Date: March 3, 2025

/s/ Trevor S. Pemberton

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Certificate of Service

I hereby certify that on March 3, 2025, I electronically transmitted the foregoing document to the Clerk of the Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the ECF registrants.

/s/ Trevor S. Pemberton